



# OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

February 22, 2021

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Matthew Giunta**  
Tax Registry No. 947033  
Property Clerk Division  
Disciplinary Case No. 2020-21753

The above named member of the service appeared before Assistant Deputy Commissioner Paul M. Gamble on November 19, 2020, and was charged with the following:

## **DISCIPLINARY CASE NO. 2020-21753**

1. Said Police Officer Matthew Giunta, while assigned to the Emergency Services Unit Canine Team, on or about January 14, 2020, while on duty and within the confines of Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer posted a fake advertisement on Craigslist, using another Member of the Service's name and personal telephone number.

**P.G. 203-10, Page 1, Paragraph 5**

**PUBLIC CONTACT –  
PROHIBITED CONDUCT**

In a Memorandum dated December 10, 2020, Assistant Deputy Commissioner Paul M. Gamble found Police Officer Matthew Giunta Guilty of the sole Specification in Disciplinary Case No. 2020-21753, after he entered a plea of Guilty. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the issues and circumstances in this matter, and deem that a greater penalty is warranted.

Specifically, Police Officer Giunta used the name and personal phone number of another member of the Department to place a fictitious advertisement on a public website. As a result, the other member of the Department began to receive unwanted phone calls.

Police Officer Giunta's actions had thus caused annoyance, alarm, and unnecessary and undue stress to the other member of the Department as he feared for his wellbeing as well as the wellbeing of his family. Overall, the actions of Police Officer Giunta were wrong and have called into question his judgment as a member of the Department.

Therefore, Police Officer Giunta shall forfeit twenty (20) vacation days, as a disciplinary penalty.

A handwritten signature in black ink, appearing to read "Dermot F. Shea". The signature is fluid and cursive, with the first name "Dermot" being more prominent than the last name "Shea".

Dermot F. Shea  
Police Commissioner



POLICE DEPARTMENT

December 10, 2020

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2020-21753
Police Office Matthew Giunta	:	
Tax Registry No. 947033	:	
Property Clerk Division	:	

-----X

At: Police Headquarters  
One Police Plaza  
New York, NY 10038

Before: Honorable Paul M. Gamble  
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Lauren Silverstein, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, NY 10038

For the Respondent: John Tynan, Esq.  
Worth, Longworth & London, LLP.  
111 John Street, Suite 640  
New York, NY 10038

To:

HONORABLE DERMOT F. SHEA  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NY 10038

## CHARGES AND SPECIFICATIONS

1. Said Police Officer Matthew Giunta, while assigned to the Emergency Services Unit Canine Team, on or about January 14, 2020, while on duty and within the confines of Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer posted a fake advertisement on Craigslist, using another Member of the Service's name and personal telephone number.

P.G. 203-10, Page 1, Para. 5

PUBLIC CONTACT-  
PROHIBITED CONDUCT

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on November 19, 2020. Respondent, through his counsel, entered a plea of Guilty to the subject charge, and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find that mitigation is warranted and recommend a penalty of twelve vacation days.

## SUMMARY OF EVIDENCE IN MITIGATION

Respondent testified that on or about January 14, 2020, he placed an advertisement on Craigslist<sup>1</sup> from his personal mobile phone while on duty. The aforementioned advertisement purported to offer a free large-screen television, including the name and telephone number of a fellow Member of Service<sup>2</sup> (hereinafter referred to as "the Detective"). It was Respondent's intention to play what he characterized as a practical joke on the Detective, with whom he had an acrimonious professional relationship. (T. 14-24, 31-32, 36-41)

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<sup>1</sup> The Tribunal takes judicial notice that Craigslist is an online bulletin board, accessible by the general public, on which individuals market goods and services.

<sup>2</sup> The identity of the fellow Member of Service is known to the Tribunal but is omitted from this decision in an attempt to protect his/her privacy.

It is undisputed that the Detective had no prior knowledge of the advertisement and did not authorize Respondent to place it. It is also undisputed that the Detective received telephone calls and text messages to his/her personal mobile phone in response to the advertisement. Finally, it is undisputed that although the Detective filed a police report with his/her local law enforcement agency on January 15, 2020, Respondent was never placed under arrest on the basis of that report. (T. 18-21, 24-26)

Respondent conceded that placing the personally identifiable information of a fellow Member of Service onto a public-facing website would likely cause them annoyance and possibly distress; he denied having any desire to expose such the Detective to danger. Respondent further denied placing any information in the advertisement which would have identified the Detective's law enforcement status. While Respondent admitted his actions were impulsive and thoughtless, he confessed that he had not apologized directly to the Detective. (T. 29, 35-36, 41)

### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on July 8, 2008. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Assistant Department Advocate has recommended a penalty of 20 vacation days. Counsel for Respondent has argued for a penalty of five vacation days. As discussed below, I find the Department's recommendation to be excessive; I do not, however, find the quantum of mitigation which would support a penalty recommendation of five vacation days.

The two disciplinary cases cited by the Department in support of their penalty recommendation are factually distinguishable from this case, in that they each involve significant aggravating factors not present here.

In *Disciplinary Case No.* [REDACTED], a nine-year police officer with no prior disciplinary history negotiated a twenty-five day penalty for harassing her boyfriend's ex-wife via fake Facebook profiles. During the investigation into these allegations, it was determined that Respondent had permitted her ex-boyfriend to take a photo of her firearm and post the photo on Facebook. Further inquiry into Respondent's Facebook activity also revealed that on two occasions, Respondent made postings to Facebook from her cell phone while on duty. A focus audit conducted as part of the investigation was also conducted on Respondent's use of Department's databases, which revealed that she made numerous inquiries in the OMNI database that were unrelated to official Department business.

In *Disciplinary Case No.* [REDACTED], a twenty-three year sergeant with one prior adjudication negotiated a penalty of 20 vacation days for using Department resources to stalk a woman he made eye contact with while on-duty and making a purchase at a pharmacy. Respondent exited the store and watched the woman as she entered her vehicle, taking note of her license plate number. He returned to his command, then ran the license plate number using a Department computer to obtain the woman's name and phone number. The following day, Respondent began sending the woman text messages, including several photographs of himself in uniform. The woman subsequently became nervous, reported the incident, and filed a complaint for Aggravated Harassment.

The first case cited above is essentially a domestic violence matter, where Respondent sent harassing messages to her former boyfriend's ex-wife using a fake Facebook account, as well as wrongfully allowing him to post a picture of her service firearm on her account. In the

second case, Respondent stalked a complete stranger through the use of Department resources, then harassed her by sending arguably threatening photographs to her. While these precedents and the instant case share the common thread of misuse of electronic devices to further the private interests of a Member of Service, the precedents involve levels of animus and intimidation which are not present in the matter before the Tribunal.

In this case, Respondent played a mean-spirited prank upon a fellow Member of Service, then lost control of it when the Detective reported it to law enforcement. The unauthorized disclosure of personally identifiable information on the Internet can lead to a reasonable fear of identity theft for anyone, but even more so for a member of the law enforcement community. Respondent apparently made no effort to mitigate the extent of the prank or make amends after the prank was discovered.

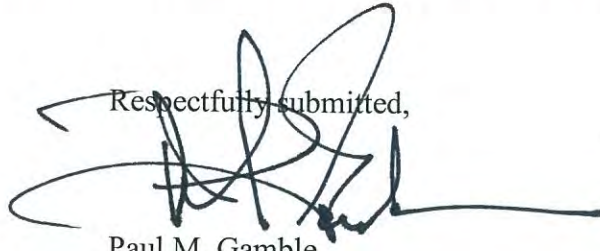
I reject the Assistant Department Advocate's argument that Respondent's actions, in effect, placed the Detective's life in jeopardy because of the civil unrest surrounding recent specific instances of alleged police misconduct and the movement for law enforcement reform; such a finding would require the Tribunal to draw inferences based upon speculation, which I decline to do. I note that Respondent's misconduct occurred in January 2020, well before the incidents the Department alluded to in their argument. I do find, however, that the disclosure of the Detective's personal information was of such character to cause any Member of Service, or their family members, unnecessary concern about possible identity theft, reflecting Respondent's poor judgement.

I find Respondent's acceptance of responsibility, both during his official Department interview on February 4, 2020, and during his testimony before this Tribunal, mitigating. I note that Respondent has one previous adjudication.



For the foregoing reasons, I recommend that Respondent forfeit twelve vacation days.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Paul M. Gamble', written over the typed name.

Paul M. Gamble  
Assistant Deputy Commissioner Trials







## POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER MATTHEW GIUNTA  
TAX REGISTRY NO. 947033  
DISCIPLINARY CASE NO. 2020-21753

Respondent was appointed to the Department on July 8, 2008. On his last three annual performance evaluations, he twice received 4.0 overall ratings of “Highly Competent” in 2015 and 2017, and once received a 3.5 rating of “Highly Competent/Competent” in 2016. He has been awarded two medals for Excellent Police Duty. [REDACTED]

In 2016, Respondent forfeited three vacation days for entering a residence without sufficient legal authority.

In connection with the instant matter, he was placed on modified assignment on February 4, 2020, and on Level 1 Discipline Monitoring on February 13, 2020. Respondent’s modified status and monitoring remain ongoing.

For your consideration.

Paul M. Gamble  
Assistant Deputy Commissioner Trials